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Examiner: Andrew J. Fischer
Art Unit: 3627

REMARKS

These remarks are responsive to an Office Action dated November 25, 2005 (hereinafter the "Office Action"). Applicant respectfully requests that the Examiner enter the Amendment presented above as it does not introduce new matter and can be examined without necessitating further search. More particularly, the Amendment clarifies the meaning of the term "data" as recited in the claims and also presents features of claims 41 and 43 as part of independent claim 39. Applicant reserves the right to pursue the subject matter originally presented in the claims in one or more continuation applications.

With regard to the Examiner's rejection of the claims under 35 USC §112, second paragraph, these issues have been addressed by amending the claims to clarify the meaning of the term "data" as recited therein. Applicant respectfully submits that this rejection is now moot.

With regard to the prior art, claims 39-57 stand rejected under 35 USC §102(e) as being anticipated by Baker (U.S. Patent No. 6,141,682). Claims 39-57 also stand rejected under 35 USC §103(a) as being obvious over Mourad et al. (U.S. Patent No. 6,078,961) in view of Hare et al. (U.S. Patent No. 6,084,638) and articles by Gralla, Muller and Derfler. Alternatively, claims 39-57 stand rejected under 35 USC §103(a) as being obvious over Mourad et al. (U.S. Patent No. 6,078,961) in view of Watson, Jr. (U.S.

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Patent No. 6,453,473) and articles by Gralla and Derfler. Applicant respectfully disagrees with the Examiner's analysis.

Clearly the anticipation rejection based on Baker is flawed as Baker fails to teach or suggest

- i) communicating first data from the first server to the computing device, the first data defining a first graphical user interface that provides for user selection of multimedia content (and subsequent display of the first graphical user interface), and
- ii) communicating a command to the media receiver via the distribution network, the command providing third data that enables the media receiver to receive the particular media content.

Similarly, the obviousness rejections based on Mourad and Hare or Mourad and Watson, Jr are both flawed as none of the references alone or in combination teach or suggest the requesting computing device and the multimedia receiver as being separate and distinct. The Examiner admits that Mourad lacks this feature but goes on to apply either Hare or Watson, Jr.

The rejection based on the combination of Mourad and Hare is both weak and confusing. Hare teaches a remote television receiver that receives signals from the computing device, and can in turn control operation of the computing device through input means at the television receiver. Clearly, this is not sufficient to establish obviousness of the claim as modifying Mourad to use the remote interface of Hare would

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simply mean that one could use a television to view images generated by Mourad's computing device and send commands to Mourad's computing device using the television receiver auxiliary devices. Nowhere do these references teach or suggest a requesting computing device and the multimedia receiver as being separate and distinct entities as part of an on-demand distribution as described and claimed in the present invention.

The rejection based on the combination of Mourad and Watson is also weak and confusing. Watson describes an access device that performs upstream and downstream frequency translation for interfacing a data modem and televisions to a coax network. Clearly, this is not sufficient to establish obviousness of the claim as modifying Mourad to use the access device of Watson would allow a data modem and computing device to interface to the CATV network of Mourad. Nowhere do these references teach or suggest a requesting computing device and the multimedia receiver as being separate and distinct entities as part of an on-demand distribution as described and claimed in the present invention.

For these reasons, Applicant respectfully submits that the claims are patentable over the cited prior art. However, in order to advance prosecution, Applicant has amended claim 39 to recite, *inter alia*,

... communicating a command to the media receiver via the distribution network, the command providing third data that enables the media receiver to tune to at least one particular RF channel of said plurality of RF channels of the distribution network and receive the particular media content over said at least one particular RF channel, wherein the command is communicated to the media receiver

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upon a determination that sufficient bandwidth is available over said at least one particular RF channel;

upon receipt of the command at the media receiver, tuning the media receiver to said at least one particular RF channel; and

communicating the particular media content from the second server to the media receiver over said at least one particular RF channel of the distribution network where it is received at the media receiver for output therefrom. [emphasis added]

The added features were originally presented in claims 41 and 43. Nowhere does the prior art teach or suggest these features. Thus, amended claim 39 is clearly patentably distinct over the prior art.

The dependent claims 40, 42-57 are patentable over the cited prior art for those reasons advanced above with respect to claim 39 from which they respectfully depend and for reciting additional features that are not taught nor suggested by the cited prior art. For example, dependent claim 56 recites, *inter alia*,

“... communicating fifth data from the first server to the computing device via the data communication network, the fifth data defining a third graphical user interface that provides for user control over re-communication of the command to the media receiver; and

wherein, upon receipt of the re-communicated command at the media receiver, the media receiver is enabled to receive the particular media content communicated from the second server to the media receiver over the distribution network.

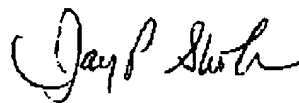
Nowhere does the prior art teach or suggest these features. In yet another example, dependent claim 57 recites that “the first data communicated from the first server to the computing device defines a graphical user interface that provides for user selection of a particular media receiver from a plurality of media receivers located at the customer’s premises, wherein the command is communicated to the particular media receiver over the distribution network, and wherein the particular media content is communicated to

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the particular media receiver over said at least one particular RF channel of the distribution network." Nowhere does the prior art teach or suggest these features.

In light of all of the above, it is submitted that the claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,



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